



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Clay Barker
Executive Director
Republican Party of Kansas
2605 SW 21st St.
Topeka, KS 66604

OCT 18 2016

RE: MUR 6900

Dear Mr. Barker:

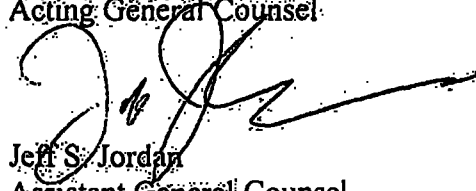
The Federal Election Commission reviewed the allegations in your complaint received on November 5, 2014. On October 7, 2016, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on October 7, 2016.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
General Counsel's Report

16044401808

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

2014 **SENSITIVE**

CFLA

MUR: 6900

Complaint Receipt Date: November 3, 2014

Response Dates: November 25, 2014 (KDP)
November 25, 2014 (Committee)

Respondents:

Orman for U.S. Senate Inc. and
Wynne R. Jennings as treasurer (collectively
the "Committee")

Gregory J. Orman

Kansas Democratic Party and

Tobias Schlingensiepen as treasurer¹
(collectively "KDP")

Allen County Democrats²

EPS Rating:

Alleged Statutory
Violations:

52 U.S.C. § 30116(a)(2)(A)

52 U.S.C. § 30116(d)

2015 SEP -1 11:10:01

The Complainant contends that KDP improperly made use of the "volunteer exemption" to make coordinated expenditures on behalf of senatorial candidate Gregory Orman³ and his Committee. Although state and local parties are allowed to use the "volunteer exemption" on behalf of their own parties' candidates, Orman was running as an independent candidate. Therefore, the Complainant argues that the costs of any assistance provided by KDP to the Orman campaign were subject to the limits set forth in the Federal Election Campaign Act of 1971, as amended ("Act") and Commission regulations. The Complainant claims that KDP supported Orman's campaign in "numerous and unreported ways," and proffers one example—that of an alleged Democratic field office located at 102 South Washington Street, Iola, in Allen County, Kansas. This venue contained Orman campaign signs which, as shown through the office window, were "ready to be handed out in the same manner as

¹ Mathew Watkins [sic] was the Committee's treasurer during the time period at issue. Mr. Schlingensiepen is currently the Committee's treasurer.

² Allen County Democrats did not file a response and our notification package to that organization was returned. See Letter to Frankie Hampton from Joan Wagnon, Chair of KDP, received on February 13, 2015.

³ Orman was defeated by incumbent senator Pat Roberts.

1 campaign materials for their nominees.”⁴ In its response, the Committee denies any affiliation with
2 KDP or knowledge of the “Iola KS volunteer office.” KDP includes a sworn declaration from its
3 executive director averring that KDP did not have a field office in Allen County, and denying that it
4 spent funds for any campaign materials that advocated Orman’s election.⁵

5 The Act limits the amount that a state party committee may contribute to, or spend on behalf of,
6 a Federal candidate. *See* 52 U.S.C. §§ 30116(a)(2)(A), 30116(d). However, the costs paid by state
7 party committees for campaign materials (such as yard signs, pins, bumper stickers, handbills,
8 brochures, posters, party tabloids or newsletters) are exempted from the definitions of “contribution”
9 and “expenditure” when the materials are used by a state or local political party committee in
10 connection with volunteer activities on behalf of a federal candidate of that party. *See* 52 U.S.C.
11 §§ 30101(8)(B)(ix) and (9)(B)(viii); *see also* 11 C.F.R. §§ 100.87 and 100.147. In this case, KDP
12 states that it did not have an office in Allen County, and both the Committee and KDP have denied that
13 the state party spent funds for campaign materials that supported Orman’s campaign.

14 Based on its experience and expertise, the Commission has established an Enforcement Priority
15 System using formal, pre-determined scoring criteria to allocate agency resources and assess whether
16 particular matters warrant further administrative enforcement proceedings. These criteria include:
17 (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in
18 violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the
19 complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and

⁴ The Complaint includes a video apparently showing a commercial building at the South Washington address with a sign entitled “Country Traditions.” The venue was covered with what appear to be placards for Democratic candidates, but not Orman. A small number of “Orman for Senate” signs appear to be stacked inside.

⁵ The Facebook page for an organization called “Allen County Democratic Party - KS” states that the entity was founded on April 28, 2015, after the Complaint and Responses in this matter were filed. *See* https://www.facebook.com/allencountysdemocrats/about/?entry_point=page_nav_about_item&tab=page_info (last visited on August 16, 2016).

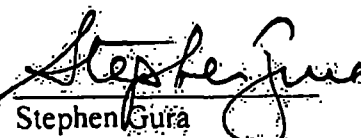
1 other developments in the law. This matter is rated as low priority for Commission action after
2 application of these pre-established criteria. Given that low rating and the other circumstances
3 presented, we recommend that the Commission dismiss the allegations consistent with the
4 Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of
5 agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the
6 Commission close the file as to all respondents and send the appropriate letters.

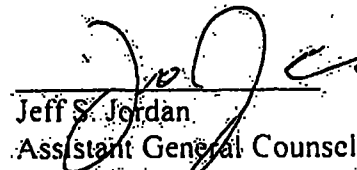
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8 Daniel A. Petalas
9 Acting General Counsel
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11
12 Kathleen M. Guith
13 Acting Associate General Counsel
14 for Enforcement
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18 8.31.16
19 Date

20 BY:

21 
22 Stephen Gura
23 Deputy Associate General Counsel
24 Enforcement
25

26 
27 Jeff S. Jordan
28 Assistant General Counsel
29 Complaints Examination
30 & Legal Administration
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32 
33 Ruth Heiliger
34 Attorney
35 Complaints Examination
36 & Legal Administration
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